



435049

February 17, 2012

**By e-mail: kerr.michelle@epa.gov & Personal Delivery**

Ms. Michelle Kerr  
Remedial Project Manager  
U.S. Environmental Protection Agency – Region 5  
Superfund Division (SR-6J)  
77 W. Jackson Blvd.  
Chicago, IL 60604-3590

**RE: USEPA General Notice and Information Request for the Chemetco  
Superfund Site in Hartford, Illinois**

Dear Ms. Kerr:

On January 31, 2012, representatives of thirty-five alleged PRPs met in Chicago or participated by telephone for the purpose of discussing the Chemetco matter. The meeting was organized with the assistance of the Institute of Scrap Recycling Industries (ISRI) and therefore, this letter refers to the meeting participants as the "ISRI Meeting Group."<sup>1</sup> All of the members of the **ISRI Meeting Group** received the November 30, 2011 General Notice letter, many of them received the Request for Information, and many participated in the December 20, 2011 meeting at EPA. The purpose of the January 31<sup>st</sup> meeting was to discuss whether a PRP group can be formed to respond to EPA regarding the future of the Chemetco site. The meeting was held under "Joint Defense Privilege," and the discussions and details of the meeting are strictly confidential.

While no waiver of the joint defense privilege is intended or created by this letter, I have been authorized by the signatories of this letter to ask EPA the following questions and make the following comments:

---

<sup>1</sup> Not all PRPs at the meeting were actually members of ISRI.

- (1) Why is EPA in such a hurry to have the PRPs fund an RI/FS when Illinois EPA and federal EPA have been knowledgeable about the conditions of the site for more than 20 years and while the Chemetco Bankruptcy Trustee is taking remedial actions?
- (2) If the PRPs are unable to form a group capable of funding the RIFS in the short timeframe set out by EPA, is the EPA willing and able to fund it?
- (3) Was there any reasonable rationale (other than administrative convenience) to excluding over 1,600 PRPs as recipients of the General Notice Letter?
- (4) Where are the underlying documents from which the USEPA's spreadsheet contained in the January 2012 informational DVD was prepared, and are they available for review? How will information from the 104(e) responses be incorporated into the databases and EPA's Weights List?
- (5) Will EPA release to us all reports of EPA and IEPA from interviews of Chemetco employees and other relevant persons?
- (6) What information is on the microfilm contained on the 7<sup>th</sup> floor of EPA, and has that information been secured against damage, destruction, theft or inappropriate access? Does the EPA intend to pay for the cost of putting the microfiche in a format (.pdf or copies) that is useable by the public? When will EPA reconcile the discrepancies between the number of microfilm rolls in the Records Center (our vendor counted 149) and the number of rolls (115) represented on EPA's inventory?
- (7) Do documents, including computer data, still remain at the site and are any of them nexus related? What action has USEPA taken, or will it take, to preserve and analyze nexus information in the possession of the bankruptcy estate? More generally, what actions will USEPA undertake to identify additional PRPs?
- (8) Isn't EPA's Weights List ranking of the PRPs unreliable (for purposes of assigning liability, attempts to form a PRP group, etc.) since it is only based on weights-in data for a short period and does not take into account the many additional responses that EPA expects from PRPs to the 104(e) requests for information? Are there other records available to determine the volumes of any hazardous substances or other substances of concern?
- (9) EPA stated that companies that shipped only to the remote warehouses were not sent the General Notice Letter, but EPA's database as contained in the January DVD bears out differently. How and when is EPA going to deal with this discrepancy?
- (10) What is USEPA's intended scope of work for the RIFS and what is a good estimated cost range for an RI/FS at this site?

(11) Why is the USEPA proposing such a tight timeframe for negotiation when the activities causing the alleged pollution have been shut down and the site seems to have been stabilized?

(12) What is the status of the bankruptcy estate and what contributions can we expect from it either present or future? Why wasn't it named a PRP? How is the useful product still on the site being handled and who owns or controls title to those assets? Will the PRPs gain the benefit from money from the sale of that product?

(13) Who compiled the spreadsheets contained in the January DVD, and what was that person's assignment? Is that person available for interview?

The biggest challenge to the ISRI Meeting Group will be gathering sufficient reliable information to make informed decisions. The companies that participated in the ISRI Meeting have not yet had an opportunity to review the voluminous documents (including site-nexus documents) that are presently stored on the 7<sup>th</sup> Floor of USEPA's offices in Chicago, and at the Hartford Public Library in Hartford, Illinois, and those previously withheld as confidential by Great Lakes Transportation.<sup>2</sup> Therefore, the companies in the ISRI Meeting Group will need additional time to conduct an investigation and gather and review the information necessary to respond to USEPA's extensive request for information<sup>3</sup> and/or its request for cooperation.

All companies in the ISRI Meeting Group received your January 18, 2012 e-mail extending the time to respond to the request for information to March 3, 2012. That e-mail also indicated that EPA would like to have another meeting with the PRPs sometime in March.

The signatories to this letter express our commitment to working further with the EPA to address the issues identified above under the following conditions:

(1) The EPA grants an extension for response to the 104(e) request for information (for those companies that must respond) and for companies to provide EPA with a firm commitment to further participate in negotiations until June 3, 2012;

(2) In the meantime, EPA conducts another informational meeting with all PRPs invited to address the questions set forth in this letter and other issues of concern.

The undersigned parties take this matter very seriously and understand the EPA's need to come to some timely resolution. However, the time frame as set forth by the EPA is simply unrealistic and unattainable. If you would like our cooperation, please strongly consider our suggestions and questions, and give us additional time to formulate into a cohesive group and to gather necessary information and make intelligent decisions going forward.

---

<sup>2</sup> We were informed on Friday, January 27, 2012 that Great Lakes is withdrawing its claim of confidentiality.

<sup>3</sup> Please note that some of these companies have already responded to previous requests for information and therefore are not requesting additional time.

Ms. Michelle Kerr  
February 17, 2012  
Page 4

Finally, but very importantly, we are concerned as a group about the safety and integrity of Chemetco Site records and company operations records, including computer drives, files and also the microfilm located on the 7<sup>th</sup> Floor. We specifically ask that the EPA take specific steps to make sure that the records, computer drives and other electronically stored information and the microfilm is safeguarded, maintained so that retrievability is reasonably feasible, and only made available to companies or persons that have a real interest in reviewing the documents. One of the tasks we are presently undertaking is to obtain estimates for an outside company to come in and copy the microfilm so that the ISRI Meeting Group has a secure copy in the event EPA does not intend to copy the microfilm into a useable format. We would be interested in exploring jointly with EPA the best way to secure all Chemetco records and information that may be or become relevant to EPA or the parties receiving General Notice Letters.

We look forward to hearing from you. In the meantime, please do not hesitate to contact any of the persons on the attached list with any additional questions or information that you need.

Very truly yours,

(See attached signatories)

cc: Tom Martin, Esq. (by e-mail: [Martin.Thomas@epa.gov](mailto:Martin.Thomas@epa.gov))

Attached are the signatories of the following companies to the foregoing letter to Ms. Michelle Kerr dated February 17, 2012.

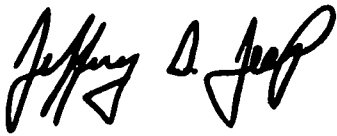
Atlas Metal  
Catmet Company, Inc.  
CommScope, Inc.  
Fry's Metals, Inc.  
Great Lakes Transportation, Inc.  
Harding Metals, Inc.  
Interco Trading  
J. Trockman & Sons, Inc.  
M. Burstein & Co., Inc.  
Metal Briquetting Company  
Metal Management Midwest, Inc.  
Metal Recycling Systems, Inc.  
Metro Recycling, Inc.  
Mike's Metals, Incorporated  
Moen, Inc.  
Mueller Company  
Northeast Metal  
Paul Mattuchio, Inc.  
Olin Corporation  
Rivers Metals Recycling  
Safran Metals, Inc.  
Warrenton Copper

Atlas Metal

By: J. Kemper Will  
Burns, Figa & Will PC  
Counsel for Atlas Metal & Iron Corp.

**Catmet Company, Inc.**

By:

A handwritten signature in black ink, appearing to read "Jeffrey A. Jacob". The signature is written in a cursive, flowing style with a large initial "J" and a distinct "A" and "J" in the middle.

**Attorney for**

CommScope, Inc.

By:

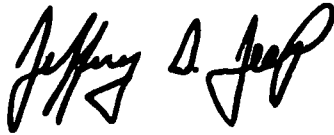
William W. Zare

Fry's Metals, Inc.

By: Sharon Salinas

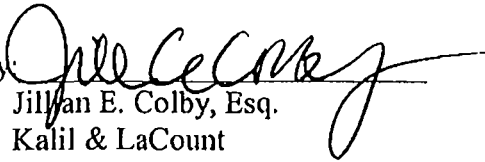
Dykema Gossett, Counsel for Fry's Metals, Inc.

**Great Lakes Transportation, Inc.**

By: 

**Attorney for**

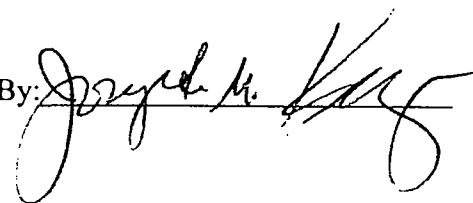
**Harding Metals, Inc.**

By: 

Jillian E. Colby, Esq.  
Kalil & LaCount  
681 Wallis Road  
Rye, New Hampshire 03870  
(603) 964-1414

**Interco Trading**

By:

A handwritten signature in black ink, appearing to read "Joseph M. King", written over a horizontal line.

**J. Trockman & Sons, Inc.**

By: 

Monica E. Edwards

Kahn, Dees, Donovan & Kahn, LLP

**M. Burstein & Co., Inc.**

By: Daniel P. Rosenthal, Esq. Counsel to M. Burstein & Co., Inc.

**Metal Briquetting Company**

By:

A handwritten signature in black ink, consisting of several loops and strokes, written over a horizontal line.

**Metal Management Midwest, Inc.**

By: 

Mark A. LaRose  
One of Its Attorneys  
LaRose & Bosco, Ltd.  
200 N. LaSalle Street, Suite 2810  
Chicago, IL 60601  
(312) 642-4414  
Fax (312) 642-0434  
[mlarose@laroseboscolaw.com](mailto:mlarose@laroseboscolaw.com)

**Metal Recycling Systems, Inc.**

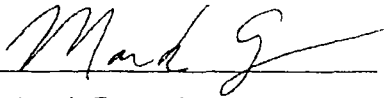
By: 

Mark A. LaRose  
One of Its Attorneys  
LaRose & Bosco, Ltd.  
200 N. LaSalle Street, Suite 2810  
Chicago, IL 60601  
(312) 642-4414  
Fax (312) 642-0434  
[mlarose@laroseboscolaw.com](mailto:mlarose@laroseboscolaw.com)

**Metro Recycling, Inc.**

By: Mark R. Sargis  
Mark R. Sargis

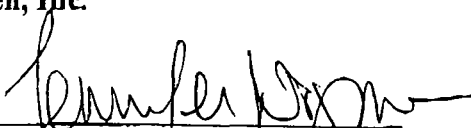
**Mike's Metals. Incorporated**

By: 

Mark Erzen, its attorney  
Mark D. Erzen, P.C.  
321 North Clark Street, Fifth Floor  
Chicago, Illinois 60654-4769  
Toll Free: 888-633-7936  
Chicago: 773-317-2832  
Facsimile: 888-633-7936  
[Mark.Erzen@ErzenLaw.com](mailto:Mark.Erzen@ErzenLaw.com)

**Moen, Inc.**

By:

  
Jennifer Wynn  
Att. Counsel

Mueller Company

By: 

Lee A. DeHihns, III

Alston & Bird LLP

1201 West Peachtree Street

Atlanta, GA 30309-3424

PH: 404-881-7151

FAX: 404-253-8569

Email: [lee.dehahns@alston.com](mailto:lee.dehahns@alston.com)

**Northeast Metal**

By: Alicia Myers

**Paul Mattuchio, Inc.**

By: Peter F. Durning

Peter F. Durning  
MACKIE SHEA O'BRIEN, P.C.  
420 Boylston Street  
Boston, Massachusetts 02116  
(617) 266-5700

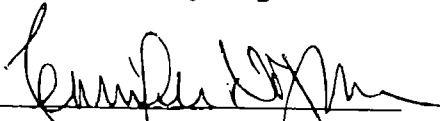
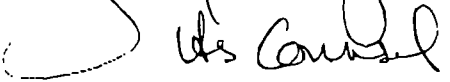
Olin Corporation

By: Curtis M. Richards

Curtis M. Richards

Corporate Vice President

**Rivers Metals Recycling**

By:   
 Es Counsel

**Safran Metals, Inc.**

By: 

Mark A. LaRose  
One of Its Attorneys  
LaRose & Bosco, Ltd.  
200 N. LaSalle Street, Suite 2810  
Chicago, IL 60601  
(312) 642-4414  
Fax (312) 642-0434  
[mlarose@laroseboscolaw.com](mailto:mlarose@laroseboscolaw.com)

Warrenton Copper

By: Thomas Bick  
THOMAS K. Bick

**Rochester Computer Recycling & Recovery, LLC**

By: Thomas F. Walsh

Thomas F. Walsh, Esq.

Its: Attorney



**LaROSE & BOSCO, LTD.**

ATTORNEYS AT LAW

200 N. LaSalle St., Suite 2810

Chicago, IL 60601

---

**BY PERSONAL DELIVERY**

Ms. Michelle Kerr

Remedial Project Manager

U.S. EPA - Region 5

Superfund Division (SR-6)}

77 W. Jackson Blvd.

Chicago, IL 60604-3590



LaROSE & BOSCO, LTD.

ATTORNEYS AT LAW

200 N. LaSalle St., Suite 2810

Chicago, IL 60601

---

**BY PERSONAL DELIVERY**

Ms. Michelle Kerr

Remedial Project Manager

U.S. EPA - Region 5

Superfund Division (SR-6J)

77 W. Jackson Blvd.

Chicago, IL 60604-3590